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Attorneys for Plaintiffs Elwood Quesada,  
James DeRosa, and All Others Similarly Situated

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ELWOOD QUESADA AND JAMES  
DeROSA and Others Similarly Situated,

Plaintiffs,

v.

BANC OF AMERICA INVESTMENT  
SERVICES INC. NKA MERRILL LYNCH  
PIERCE FENNER & SMITH, INC.,

Defendant.

Case No. CV-11-1703-EMC

**STIPULATION RE THIRD AMENDED  
COMPLAINT AND TO TAKE HEARING  
ON DEFENDANT'S MOTION TO DISMISS  
THE SECOND AMENDED COMPLAINT  
OFF CALENDAR ; ORDER**

Date: November 21, 2011  
Time: 2:00 p.m.  
Place: Courtroom 3 – 5<sup>th</sup> Floor

Complaint Filed: February 7, 2011  
FAC Filed: May 11, 2011  
SAC Filed: September 23, 2011

The Honorable Edward M. Chen

The parties, Plaintiffs Elwood Quesada and James DeRosa (“Plaintiffs”) and Banc of America Investment Services Inc.’s (nka Merrill Lynch Pierce Fenner & Smith, Inc.) (“Defendant” or “BOA”), hereby stipulate to Plaintiffs filing of a third amended complaint and to take the currently pending Motion to Dismiss (the “Motion”) the Second Amended Complaint (“SAC”) off-calendar.

WHEREAS, as a matter of right, Plaintiffs can file a third amended complaint in response to Defendant's MTD the SAC;

WHEREAS, Defendant consents to Plaintiffs filing a third amended complaint,  
without waiver of any of its defenses thereto;

WHEREAS, Plaintiffs consent to Defendant having 21-days to respond to the third amended complaint;

WHEREAS, in light of the filing of a third amended complaint, the currently scheduled hearing on the MTD the SAC, now set for November 21, 2011, should go off-calendar.

**THEREFORE**, the Parties hereby stipulate to Plaintiffs' filing of a third amended complaint on or before October 28, 2010, to Defendant filing its response thereto no later than 21-days thereafter, and to take the pending hearing on the MTD the SAC off-calendar.

Respectfully Submitted,  
LAW OFFICES OF JON E. DRUCKER, PC

Dated: October 25, 2011      By: /s/  
Jon E. Drucker  
Attorneys for Plaintiffs Elwood Quesada, James DeRosa,  
and All Others Similarly Situated

REED SMITH LLP

Dated: October 25, 2011 By: /s/ Heather B. Hoesterey  
Attorneys for Defendant  
BANC OF AMERICA INVESTMENT SERVICES INC.  
NKA MERRILL LYNCH PIERCE FENNER & SMITH, INC..

ORDER

IT IS SO ORDERED.

Dated: October 27, 2011 By: \_\_\_\_\_

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